

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT**

United States Court of Appeals  
Fifth Circuit

**FILED**

March 31, 2010

\_\_\_\_\_  
No. 09-20184

Summary Calendar  
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Charles R. Fulbruge III  
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

ANTHONY RAY FOLEY,

Defendant-Appellant

\_\_\_\_\_  
Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. 4:08-CR-331-1  
\_\_\_\_\_

Before KING, STEWART, and HAYNES, Circuit Judges.

PER CURIAM:\*

The attorney appointed to represent Anthony Ray Foley has moved for leave to withdraw and has filed a brief in accordance with *Anders v. California*, 386 U.S. 738 (1967). Foley has filed a response and moves for the appointment of counsel. Our independent review of the record, counsel's brief, and Foley's response discloses no nonfrivolous issue for appeal. Foley's motion for appointment of counsel is DENIED. *Cf. United States v. Wagner*, 158 F.3d 901, 902-03 (5th Cir. 1998) Accordingly, counsel's motion for leave to withdraw is

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\* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

GRANTED, counsel is excused from further responsibilities herein, and the APPEAL IS DISMISSED. *See* 5TH CIR. R. 42.2.